

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

NO. 5:09-CR-00198-FL-1  
NO. 5:11-CV-00392-FL

TONY ANTHONY GILL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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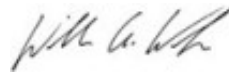
**ORDER**

This cause comes before the Court upon petitioner Tony Gill’s motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody (“motion to vacate”) (DE-46). In its response to Gill’s motion to vacate (DE-52), the government stated that the FSA applied to Gill and asked the Court to “defer consideration of Petitioner’s other ineffective assistance of counsel claim—in which Petitioner claims that his attorney did not file a notice of appeal—until it decides whether to re-sentence Petitioner” and further noted that “[i]f the Court chooses not to resentence Petitioner or enter a new judgment, Respondent will promptly address Petitioner’s claim.” (DE-52, p.7).

In her order filed March 5, 2012, Judge Flanagan determined that the FSA did not apply to Gill, and that he would not be resentenced on that basis. (DE-58). Judge Flanagan recommitted Gill’s claims of ineffective assistance of counsel to the undersigned. As the Court has not resentenced Gill, the undersigned hereby directs the government to file, on or before March 19,

2012, a supplemental memorandum informing the Court of its position on Gill's claim of ineffective assistance of counsel based on the alleged failure of his attorney to file a notice of appeal. Petitioner may provide a written response to the government's filing on or before March 26, 2012.

DONE AND ORDERED in Chambers at Raleigh, North Carolina on Monday, March 5, 2012.



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WILLIAM A. WEBB  
UNITED STATES MAGISTRATE JUDGE